



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

0 2 NOV 2007

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

| | | |
|--|---|----------|
| In re Application of ANLIKER | : | |
| U.S. Application No.: 10/538,168 | : | |
| PCT Application No.: PCT/DE2003/003229 | : | DECISION |
| Int. Filing Date: 27 September 2003 | : | |
| Priority Date Claimed: 02 October 2002 | : | |
| Attorney Docket No.: TMEY-00101-NUS | : | |
| For: SUPPOSITORY-PACKAGING DEVICE | : | |

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 17 October 2007, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 27 September 2003, applicant filed international application PCT/DE2003/003229, which claimed priority of an earlier Germany application filed 02 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 02 April 2005.

On 09 June 2005, applicant filed a petition to revive under 37 CFR 1.137(b) along with national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 February 2006, this Office mailed a decision granting the 09 June 2005 petition.

On 08 April 2006, applicant filed an executed declaration.

On 22 March 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the given name of the inventor listed on the declaration does not match that shown in the published international application.

On 17 October 2007, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The published international application lists Franz Anliker as the sole inventor. The petition states that Markus Anliker is the sole inventor.

37 CFR 1.497(d) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the petition fails to state whether an assignment has been executed by any of the original inventors. If such an assignment exists, written consent of the assignee must be provided, and proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

With regard to item (4) above, a new oath or declaration is not required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459